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EXAMINER

PRATT, CHRISTOPHER C

ART UNIT PAPER NUMBER

1771

DATE MAILED: 10/27/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 1771

Response to Arguments

1. In view of the Appeal Brief filed on 6/26/03, PROSECUTION IS HEREBY REOPENED. Prosecution is reopened because the best prior art was not applied against the claims. A new grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 13-15 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Swieringa (4874457).

Swieringa is concerned with the creation of a laminate comprising a first layer comprising a corrugated nonwoven web comprising fusible fibers (abstract). Swieringa

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allows for the web to have up to 100% fusible fibers (claim 1, lines 1-2). Swieringa's web is unbonded, corrugated to produce folds, and subsequently bonded throughout (fig. 1). The web is compacted and bonded such that no gaps are present between folds (col. 2, lines 15-17, col. 6, lines 18-20, and col. 7, lines 44-64). The laminate comprises a nonwoven second layer (figs. 10 and 12).

The corrugations can be both uniform and non-uniform in height (figs. 13-16).

Swieringa's process involves rotary lapping.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 16-19, 21, and 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swieringa (4874457) in view of Huntoon et al (5906879).

Swieringa fails to teach the use of superabsorbent fibers, a method of initially forming the nonwoven web, and applicant's claimed uses. Huntoon is concerned with the creation of a corrugated nonwoven web. As set forth in previous actions, Huntoon teaches the incorporation of superabsorbent fibers into the corrugated web as well as methods for forming the web (cols. 3-4, lines 55-7). It would have been obvious to a person having ordinary skill in the art to utilize superabsorbent fibers and Huntoon's

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method. Such a combination would have been motivated by the desire to impart absorbent functionality to Swieringa's web. Absorbent properties would expand the commercial uses of Swieringa's web to render it suitable for various lucrative industries such as diapers.

Swieringa is silent with respect to the desired end product usage of its web. Thus, it is necessary to look the prior art for suitable utilities for Swieringa's web. Huntoon teaches applicant's claimed uses (col. 2, lines 6-10). It would have been obvious to a person having ordinary skill in the art to utilize Swieringa's web in Huntoon's uses. The skilled artisan would have been motivated to utilize Swieringa's web in Huntoon's industry by the desire to achieve commercial success with Swieringa's web.

Swieringa does not teach conjugate fibers. Huntoon teaches the use of conjugate binder fibers (col. 4, lines 9-20). It would have been obvious to a person having ordinary skill in the art to utilize conjugate fibers in the web of Swieringa. Such a modification would have been motivated by the desire to provide uniform bonds while creating a lofty nonwoven web that is soft, but strong and has a high level of resiliency (col. 4, lines 37-39).

With respect to claim 24, Swieringa teaches the corrugated web positioned transversely to other nonwovens (fig. 12). It would have been obvious to align the web in a transverse direction in the final absorbent product. Such a modification would have been motivated by the desire to optimize the absorbent properties of the web by

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creating channels in the fabric to facilitate the transport of fluids (col. 6, lines 17-21 of Huntoon).

6. Claim 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swieringa (4874457) in view of either Chen et al (5865824), Buck et al (4263363), or Hartwell (3881489).

Swieringa is silent with respect to void volume. Chen, Buck, and Hartwell are all concerned with the creation of creped nonwoven webs having high void volume (col. 3, lines 15-18, col. 5, lines 30-35, and abstract, respectively). The web of Swieringa may inherently have a void volume above 53, because creped webs are inherently high in void volume. However, if not, it would have been obvious to a person having ordinary skill in the art to increase the void volume of Swieringa's web. Such a modification would have been motivated by the desire to improve the fluid handling capabilities of the web.

Swieringa teaches the web to be perpendicularly oriented (fig. 12).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

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If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Christopher C. Pratt
October 20, 2003



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